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FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/08

SPONSOR Stewart LAST UPDATED _____ HB 626

SHORT TITLE Oil And Gas Emergency Tax Act Fund to Schools SB _____

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(23,710.0)	(22,920.0)	Recurring	General Fund
	56,780.0	55,400.0	Recurring	Public School Fund

(Parenthesis () Indicate Revenue Decreases)

Companion to HB241 and others – See Companions below

SOURCES OF INFORMATION

LFC Files

Department of Finance and Administration (DFA)

Responses Received From

Energy Minerals and Natural Resources (EMNRD)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 626 raises the rate of tax under the Oil and Gas Emergency School Tax Act on oil and oil and other liquid hydrocarbons to 4 percent, equal to that of natural gas. The lower rates on production at “stripper” wells (wells that are nearing the end of their productive life) are also repealed. HB626 also redirects 12.5 percent of the revenues from the oil and gas emergency school tax to the public school fund, a fund that distributes funds to school districts according to the state equalization guarantee.

Currently, the tax rate varies depending on the product: 3.15% on oil and on oil and other hydrocarbons removed from natural gas at or near the wellhead; 3.15% on carbon dioxide, helium and non-hydrocarbon gases; 4% on natural gas; 1.58% to 2.36% on oil and on other liquid hydrocarbons removed from natural gas from a stripper well, depending on the average annual taxable value, if the taxable value of oil does not rise above \$18 a barrel; and 2% to 3%

on natural gas removed from a stripper well, depending on the average annual taxable value, if the taxable value of natural gas does not rise above \$1.35 per thousand cubic feet.

The effective date is July 1, 2008.

FISCAL IMPLICATIONS

The emergency school tax revenues are based on the value of production and so very dependent on the price of natural gas and oil that New Mexican producers receive. In the recent past, these prices have been much higher than normal but it is a volatile revenue stream and the revenues being realized now may not stay at that level. As the table below shows, the revenues to the public school fund are expected to be \$56.8 million in FY09. Because the increase in the excise tax does not equal the new distribution to the public school fund, there is a negative general fund impact of \$23.7 million in FY09.

Fiscal Impacts of HB626

	FY08	FY09	FY10	FY11	FY12
School Tax base	426.32	421.18	410.70	400.28	385.03
School Tax w/ 4% rate for Oil and CO2	426.32	454.25	443.18	432.19	416.36
Public School Fund		56.78	55.40	54.02	52.04
Gen Fund		(23.71)	(22.92)	(22.12)	(20.71)
Net change, both funds		33.07	32.48	31.91	31.33

Source: DFA

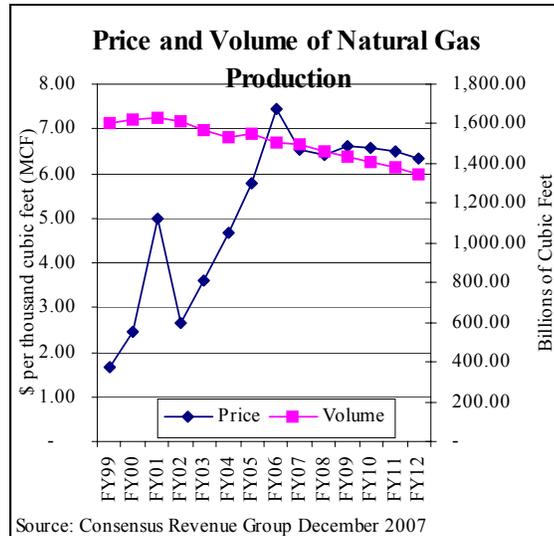
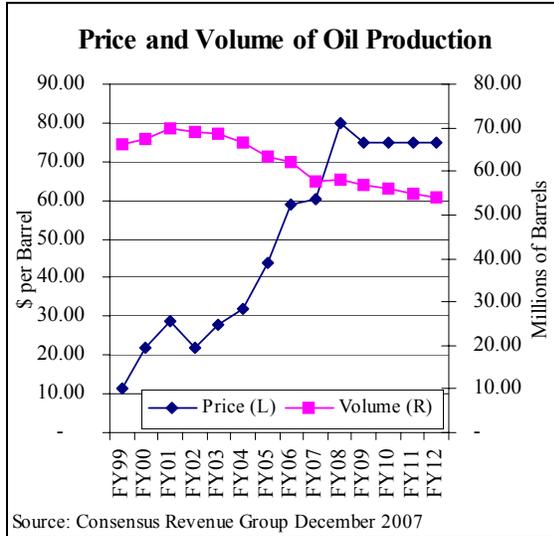
This bill creates provides for continuing appropriations to a fund other than the general fund. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

HB 626 is sponsored by the education funding formula task force, a task force that worked on updating and improving the education funding formula that distributes money from the public school fund to the local school districts. House Bill 241, the legislation that creates a new funding formula, lays out the foundation for a new formula projecting the sufficient per-student cost calculation for school districts and charters schools. It contains definitions and cost factors consisting of: poverty, English language learners, special education, mobility, percent of district enrollment by set grades and the weighted index of staff qualifications. It identifies the sufficient per-student cost multiplier and guidance about how to complete the sufficient per-student cost calculation. Methodologies are identified for factoring in growth; new school demographics; special education; implementation of intervention strategies related to lowering special education identification rates; annual updates of cost factors; and annual adjustment of the base per-student cost based on appropriations. By using a simplified method, the formula is intended to minimize “formula chasing” by some districts.

Oil and natural gas prices. The current consensus revenue group forecast show the price of oil at all time highs for New Mexico and natural gas prices much higher than the historical level. As the charts below show, the prices of both commodities are expected to flatten out or decline in

the forecast. Of more importance is the volume forecast. Both commodities are in declining production states. There are also significant risks to production that could affect the revenues. These risks include the new pit rule regulation proposed by the oil and conservation division of EMNRD and the prospect of distribution bottlenecks at major hubs that accept New Mexico products.



CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Companion bills:

HB 241 implements a new public school funding formula. HB51 mandates combined reporting for unitary corporations. HB 398 increases the mileage for statewide property taxes by 5 mills for public education funding. HB 311 increases the statewide gross receipts tax rate. HB 229 ends yield control for school districts.

POSSIBLE QUESTIONS

How much of the total funding for the new funding formula will this proposal account for?
 How will the repeal of the lower rates for stripper wells affect production?

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